

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Case No: 05-cr-30039-MAP

UNITED STATES OF AMERICA

v.

JULIO MARIN

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DEFENDANT’S MOTION FOR DOWNWARD DEPARTURE
UNDER USSG §5K2.13

Julio Marin, defendant, hereby moves for a downward departure under USSG §5K2.13, which allows for downward departures on account of “diminished capacity.”

In support, defendant states that he suffered from a significantly reduced mental capacity that contributed substantially to the commission of the offense. Evidence of his reduced mental capacity has been documented in prison, jail and hospital records which, on information and belief, have been collected by probation as part of the pretrial probation investigation.¹ Dr. Howie Lester has reviewed most of these records and interviewed defendant, but has not yet had an opportunity to meet with defendant’s family or to prepare a report. Taking family information into account is important in this case, among other reasons, because reportedly there is a family history of mental disorders. Dr. Lester anticipates being able to complete his report

¹ One feature of defendant’s mental disorder was evident at his plea hearing in this case. During that hearing, upon questioning by the court, defendant revealed that a) he was taking medication because he heard voices and b) he had been hearing voices during the time he was answering the judge’s questions. Defendant also has a large scar on his neck as a result of a serious suicide attempt that predates the instant offenses.

by the middle of October, if sentencing be continued.

Sentencing is currently set for September 6, 2006, and defendant has specifically instructed his counsel not to seek a continuance. Assuming there is no continuance, defendant seeks an opportunity at the sentencing hearing a) to introduce copies of the actual prison, jail and hospital records concerning his mental disorder, b) to call his sister Nellie Marin to testify about defendant's history and the history of other family members, and c) to testify on his own behalf.

JULIO MARIN, By His Attorney,

s/ Myles Jacobson

Date: August 29, 2006

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